

REMARKS

Applicant has cancelled claims 1-4 and added new claims 9-11. New claim 9 is directed to an air permeable porous pad, a product and claims 10 and 11 are product by process claims. In writing new claims 9-11, Applicant has eliminated indefinite language such as “may be used” and incorporated proper language into the product by process claims. Accordingly, it is Applicant’s contention that new claims 9-11 are in proper form and should be allowed.

Original claims 1-4 were rejected under 35 U.S.C. 102(b) as being anticipated by Genba et al. (U.S. Patent Number 4,809,493). It is respectfully submitted that the Genba et al. patent does not anticipate new claims 9-11. To be more specific, it is Applicant’s contention that Genba et al. does not disclose first and second overlapping layers of elongated parallel juxtapositioned webs as called for in new claims 9-11. It is also Applicant’s contention that there is no disclosure in Genba et al. of said webs including a plurality of open fibers consisting of 55% to 85% primary fibers and 15% to 45% heat meltable fibers. Further, there is no suggestion in Genba et al. of wherein said first and second layers are crosslapped and heat treated. What Genba et al. does disclose is rapidly shrinking fibers as for example heat treated carboxy-modified polyvinyl alcohol under specific conditions. Such fibers are mixed in conjunction with a fiber slowing shrinking in water as well as non-woven fibers made by incorporating yarns containing rapidly shrinking fibers in non-woven fabric shrinkable upon absorption of water.

Accordingly, it is Applicant’s contention that new claims 9-11 are clearly and patentably distinguished over Genba et al. Further, as provided in the Manual of Patent Examining Procedures (MPEP) Section 2131:

TO ANTICIPATE A CLAIM, THE REFERENCE MUST
TEACH EVERY ELEMENT OF THE CLAIM.

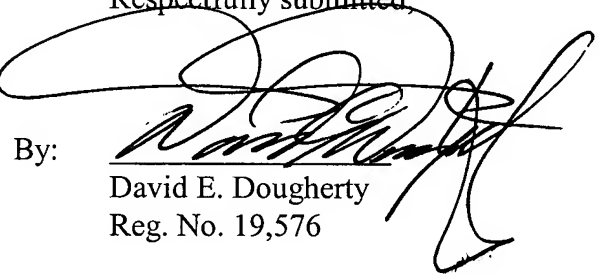
“A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently described in a single prior art reference.” (Cite omitted)

"The identical invention must be shown in as complete detail as is contained in the claim." (Cite Omitted)

It is respectfully submitted that the cited reference does not disclose or suggest first and second overlapping layers of elongated parallel juxtapositioned webs. It is also Applicant's contention that the cited reference does not disclose a plurality of open fibers consisting of 55% to 85% primary fibers and 15% to 45% heat meltable fibers. Further, the cited art does not show, wherein said first and second layers are crosslapped and heat treated. Accordingly, claims 9-11 should be allowed.

Since all of the claims are in proper form and clearly and patentably distinguished over the cited art, prompt favorable action is requested.

June 16, 2004
Date

Respectfully submitted,

By: David E. Dougherty
Reg. No. 19,576

Dennison, Schultz, Dougherty & MacDonald
1727 King Street, Suite 105
Alexandria, Virginia 22314
Tel: 703-837-9600 - Ext. 17
Fax: 703-837-0980